

ORDINANCE NO. 2024- 50

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE SERVICE CONTRACT NO. 12369 BETWEEN THE CITY OF POMPANO BEACH AND TRIO DEVELOPMENT CORPORATION FOR LIFT STATION REHABILITATION AND REPAIR SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Service Contract No. 12369 between the City of Pompano Beach and Trio Development Corporation for lift station rehabilitation and repair services, a copy of which Contract is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Contract between the City of Pompano Beach and Trio Development Corporation.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 10th day of September, 2024.

PASSED SECOND READING this 24th day of September, 2024.

Signed by:

Rex Hardin

502CB780EB3F480...

REX HARDIN, MAYOR

ATTEST:

DocuSigned by:

Kervin Alfred

D1C913A8ED334CA...

KERVIN ALFRED, CITY CLERK

Signed by:



MEB/mcm
5/28/24
L:ord/2024-183

LIFT STATION AND REPAIR SERVICES AGREEMENT
No. 12369

THIS AGREEMENT is dated October 1, 2024 by and between CITY OF POMPANO BEACH, FLORIDA (hereinafter called OWNER) and Trio Development Corporation (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

The project consists of the furnishing of all labor, equipment and materials for lift station rehabilitation services as described in Exhibit "A".

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: RFP E-04-24.

Article 2. ENGINEER

Not applicable.

Article 3. CONTRACT TERM

The initial Contract term shall be for a term of five (5) years or less, beginning with the date this Agreement is fully executed by both parties. The City reserves the right to renew this Agreement for one (1) additional five (5) year period, subject to Contractor acceptance, satisfactory performance, and determination that the renewal will be in the best interest of the City.

Article 4. PRECONSTRUCTION PHASE REQUIREMENTS

Upon request by OWNER, CONTRACTOR shall appear on site within four (4) hours to make an assessment of the efforts required to execute the repair. Contractor shall provide OWNER with a plan to execute the repairs, and if possible, an estimate for the work. After evaluation of the CONTRACTOR's proposed plan for the repairs, OWNER may, at its sole discretion, use a different CONTRACTOR, award the work to the CONTRACTOR or perform the work internally.

Article 5. LIQUIDATED DAMAGES

OWNER and CONTRACTOR recognize that time is of the essence of the Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in Article 3, above, plus any extensions thereof allowed in accordance with the EXHIBIT "B" GENERAL CONDITIONS. They also recognize the delays, expense and difficulties involved in the proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time.

Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER five hundred and 00/100 dollars (\$500.00) for each day that expires after the time specified in Article 3 for Substantial Completion, plus any monies paid by the OWNER to the ENGINEER for additional engineering and inspection services until the Work is substantially complete. After Substantial Completion if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay the OWNER three hundred and 00/100 dollars (\$300.00) for each day that expires after the time specified in Article 3 for completion of Work and readiness for final payment, plus any monies paid by the OWNER to the ENGINEER for additional engineering and inspection services.

Article 6. CONTRACT PRICE

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows:

The total sum of the work shall not exceed four million dollars (\$4,000,000.00). See BID PROPOSAL attached for line item pricing.

Article 7. PAYMENT PROCEDURES

7.1 CONTRACTOR shall submit Applications for Payment in accordance with the EXHIBIT "B" GENERAL CONDITIONS. Applications for Payment will be processed by ENGINEER as provided in the EXHIBIT "B" GENERAL CONDITIONS.

7.2 Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER, on or about the 1st day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values established in the EXHIBIT "B" GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

7.2.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and such amounts as OWNER will determine, or OWNER may withhold, accordance with the EXHIBIT "B" GENERAL CONDITIONS.

5% of Work completed will be withheld by OWNER as retainage.

7.2.2 Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price, less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with the EXHIBIT "B" GENERAL CONDITIONS.

7.3 Final Payment. Upon final completion and acceptance of the Work in accordance with the EXHIBIT "B" GENERAL CONDITIONS, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said EXHIBIT "B" GENERAL CONDITIONS.

Article 8. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

8.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract documents,

Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

8.2 CONTRACTOR has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the bid, and accepts the determination set forth in the bid of the extent of the technical data contained in such reports and Drawings upon which CONTRACTOR is entitled to reply.

8.3 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies in addition to or to supplement physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with other terms and conditions of the Contract Documents, including specifically the provisions of the EXHIBIT "B" GENERAL CONDITIONS; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

8.4 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities.

No additional examinations, or investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.

8.5 CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

8.6 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

8.7 By entering into this Contract, the CONTRACTOR becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this contract is terminated for a violation of the statute by the CONTRACTOR, the CONTRACTOR may not be awarded a public contract for a period of one (1) year after the date of termination.

Article 9. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of this Agreement and the following Exhibits, attached hereto and by reference incorporated herein and made a part hereof:

Exhibit "A" – Request for Proposals (RFP), including, but not limited to, the original RFP, specifications, drawings, exhibits to the RFP, line item pricing, any addenda issued and all documentation submitted by the CONTRACTOR; including, but not limited to, CONTRACTOR's Bid Pages, CONTRACTOR's sworn statement on drug-free workplace, any documentation submitted by the CONTRACTOR prior and after award in relation to the RFP and this Agreement

Exhibit "B" –GENERAL CONDITIONS

Exhibit "C" – Insurance Requirements

This Agreement and the exhibits listed above, including any approved amendments to the Agreement comprise the entirety of the contract documents between the OWNER and CONTRACTOR. This Agreement may only be amended, modified or supplemented as provided in EXHIBIT "B", GENERAL CONDITIONS.

Any inconsistency in this Agreement and its exhibits listed above shall be resolved by giving precedence in the following order:

- a) This Agreement
- b) Exhibit "B", GENERAL CONDITIONS
- c) Exhibit "A", RFP, addenda and documentation

Article 10. NOTICES AND DEMANDS

A notice, demand, or other communication hereunder by either party to the other shall be effective if it is in writing and sent via email, facsimile, registered or certified mail or other trackable delivery service, postage prepaid to the representatives named below or is addressed and delivered to such other authorized representative at the address as that party, from time to time may designate in writing and forward to the other.

If to Contractor: Chris R. Shortz
1701 NW 22nd St Ct
Pompano Beach, FL 33069
Office: 954-971-2288
Email: chris@triodevelopment.com

If to City: Randolph Brown, Contract Administrator
100 West Atlantic Blvd
Pompano Beach, FL 33060
Office: 954-545-7044
Email: randolph.brown@copbfl.com

Article 11. MISCELLANEOUS

11.1 Terms used in this Agreement which are defined in the EXHIBIT “B” GENERAL CONDITIONS will have the meanings indicated in the EXHIBIT “B” GENERAL CONDITIONS.

11.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the Contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

11.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Attest:

CITY OF POMPANO BEACH

DocuSigned by:
Kervin Alfred
D1C913A8ED334CA...
KERVIN ALFRED, CITY CLERK

Signed by:
Reza Hardin
By: 502CB780EB3F480...
REX HARDIN, MAYOR

APPROVED AS TO FORM:

DocuSigned by:
Gregory P. Harrison
By: 7052A67F15A44C8...
GREGORY P. HARRISON, CITY MANAGER

DocuSigned by:
Tracy Lyons
EAD0181D13084ED...
For MARK E. BERMAN, CITY ATTORNEY



“CONTRACTOR”

Witnesses:

Trio Development Corporation

Alicia Richards

By: LR Shortz
Lawrence R. Shortz, President

Alicia Richards
(Print or Type Name)

[Signature]

Scott Christie
(Print or Type Name)

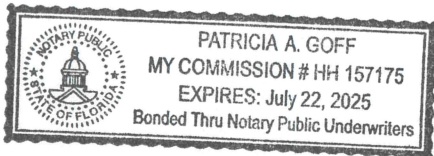
STATE OF FLORIDA

COUNTY OF Broward

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization this 23rd day of July, 2024, by Lawrence R. Shortz as President of Trio Development Corporation, a Florida corporation on behalf of the corporation. He is personally known to me or who has produced _____ (type of identification) as identification.

NOTARY’S SEAL:

Patricia A. Goff
NOTARY PUBLIC, STATE OF FLORIDA



(Name of Acknowledger Typed, Printed or Stamped)

Commission Number